FILED
OCT 14 1987
JOSEPH F. SPANIOL, JR.
CLERK

No. A-154

IN THE SUPREME COURT OF THE

UNITED STATES

October Term, 1987

RAYMOND DOBARD,

Petitioner, Appellant, Plaintiff

vs.

CITY OF OAKLAND, et al.,

Respondent, Appellee, Defendant

Appendices to Jurisdictional Statement
(amended)

Raymond Dobard
Appellant, in pro per
not represented by
counsel
1866 Alcatraz Avenue
Berkeley, California
94703, (415) 658-5344

November 1, 1987

FILED
Supreme Court U.S.
OCT 14 1987
JOSEPH F. SPANIOL, JR.
CLERK

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Filed

August 26, 1987

Cathy A. Catterson, Clerk

In the United States Court of Appeals for the Ninth Circuit

Raymond Dobard

Appellant C.A. No. 85-2715

vs. D.C. No. C85-1359 JPV

City of Oakland, et al.

Appelleee

Notice of Appeal to the Supreme Court of the United States

To: Honorable Thurgood Marshall, Associate Justice of the Supreme Court of the United States.

Notice is hereby given, that Raymond Dobard, the appellant in this case, hereby appeals to the Supreme Court of the United States from the Judgment of the United States Court of Appeals for the Ninth Circuit, dated March 10, 1987, rehearing denied by order dated June 5, 1987; affirming the summary

-/-

judgment-dismissal with prejudice order of the United States District Court for the Northern District of California dated Sept. 30, 1985.

This appeal is taken pursuant to 28 U.S.C. 1254(2).

Dated: Aug. 17, 1987.

Raymond Dobard

s/Raymond Dobard, Appellant pro se and not represented by counsel

Not for Publication

Filed

June 5, 1987

Cathy A. Catterson, Clerk

In the United States Court of Appeals for the Ninth Circuit

Raymond Dobard

Appellant

vs.

City of Oakland, et al.

Appellees

C.A. No. 85-2715

D.C. No. 85-1359 JPV

ORDER

Appeal from the United States District Court for the Northern District of California

Before: Wallace, Poole, and Wiggins, Circuit Judges

The panel as constituted above has voted to reject the suggestion for rehearing en banc.

The full court has been advised by the suggestion for rehearing en banc, and no judge of the Court has requested a vote on the suggestion for rehearing en banc. Fed. R. App. P. 35(b).

The suggestion for rehearing en banc is rejected.

FILED
MARCH 10, 1987

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RAYMOND DOBARD, Plaintiff-Appellant, vs. CITY OF OAKLAND and DOES 2 THROUGH 99, Defendants-Appellees.	)	No. 85-2715 D.C. No. 85-1359 JPV MEMORANDUM

Appeal from the United States District Court for the Northern District of California.

John P. Vukasin, Jr., District Judge, Presiding. Argued and Submitted December 8, 1986, San Francisco, California.

Before: WALLACE, POOLE, and WIGGINS, Circuit Judges.

Dobard appeals a ruling by the district court judge refusing to recuse himself from the case and granting Oakland's motion for

summary judgment on Dobard's constitutional and civil rights claims. We have jurisdiction pursuant to 28 U.S.C. § 1921, and we affirm.

Dobard argues that District Court Judge Vukasin should have recused himself pursuant to 28 U.S.C. § 455a because his brother has close professional ties with the City and because the judge is racially biased. Regardless of what standard of review we apply this claim will fail. George Vukasin, Judge Vukasin's brother, is president of the Oakland Coliseum Board. The Coliseum Board is completely independent from the City. George Vukasin's position alone does not raise any question of prejudice on the part of the judge. See United States v. Olander, 584 F.2d 876, 882 (9th Cir. 1978) (section 455(a) does not require recusal absent a direct personal bias against a party).

George Vukasin formerly served on Oakland's City Council, but this does not raise any grounds for disqualification. Section 455(b)(5)(i) requires a sitting judge

to recuse himself when a relative "(i)s a party to the proceeding, or an officer, director, or trustee of a party" (emphasis added). The uncontroverted evidence shows that Mr. Vukasin had not been a member of the City Council for over six years prior to the district court's decision in this case. The statute does not require recusal in this kind of situation.

Finally, the affidavits submitted by Dobard alleging that Judge Vukasin is racially biased are insufficient to support a motion to recuse. The allegations made in these affidavits are entirely unsubstantiated. A motion to recuse must be based on more than rumors and conjecture.

Dobard also appeals the district court granting summary judgment in favor of Oakland. We review the entry of summary judgment de novo. Darring v. Kincheloe, 783 F.2d 874, 876 (9th Cr. 1986). In his complaint, Dobard alleges violation of 42 U.S.C. §§ 1981, 1982, 1983, 1985, and 2000(e), the fourteenth amendment's due process and equal

protection clauses, and the thirteenth amendment. While Dobard's briefs are far from clear, his primary allegation appears to be that he was denied his right to procedural due process because the City did not give him a hearing prior to demolishing his substandard rental property.

Before demolishing property the City is required by ordinance to go through a several-stage process. First, a housing division official must find the property unsafe or substandard, and send notice of that finding to the property owner. Dobard's property was initially found substandard, and notice was given, on April 22, 1975. Next, a hearing must be held before the Housing Advisory and Appeals Board (HAAB) to determine whether the substandard property is dangerous or a public nuisance. Here, that hearing was held on August 18, 1977. The HAAB found unanimously that the property was a public nuisance, and that it should be demolished.

The property was transferred to Dobard soon after the demolition hearing. Instead

of proceeding with the demolition, which the City had every right to do, the City decided to give Dobard 120 days from August 13, 1979, to rehabilitate the property. The original demolition order was not rescinded, but rather "held in abeyance." On October 2, 1980, the property was reinspected by Julius Thomas, assistant housing manager, who found that the property was still a public nuisance despite some progress in rehabilitation. Even though the previous demolition order was still in effect, the City again agreed to hold the demolition in abeyance pending completion of the repairs.

Between October 2, 1980, and February 26, 1985, the housing officials made numerous attempts to reinspect the property. Mr. Dobard failed to appear at any of the scheduled inspections. Faced with an inability to reinspect the property, the City went ahead with demolition procedures.

On September 6 and October 4, 1984, the Board held two hearings in which it reaffirmed its previous order to demolish. Mr.

Dobard did not attend either of these hearings. The City subsequently sent Dobard 90 and 30 day demolition notices. On February 26, 1985, Dobard was given another chance to defend the condition of his property at a City Council meeting. Prior to that meeting, Dobard again refused to let City inspectors inspect the property. Because there was no new evidence to present on the condition of the property, the council took no action.

Based on our review of the record, we conclude that Dobard received all the process he was due. The City followed proper procedures when it first declared the property substandard and worthy of demolition. Moreover, the City gave Dobard ample opportunity to rehabilitate the property. There is no evidence in the record that Dobard succeeded in rehabilitation, despite being given over six years to do so. In fact, the record shows quite the opposite. In his final letter to the HAAB, dated January 13, 1985, Dobard sought a 90-day extension of final demolition so that he could "seek financial

assistance to perform additional rehabilitation work." Dobard has not raised any material issues of fact to support his claims that the City violated his due process rights or that demolition of his substandard property was unwarranted. Summary judgment on this issue was appropriate.

Dobard has failed to allege or otherwise demonstrate the requisite racial animosity to support his other civil rights claims. Summary judgment on these issues was appropriate.

AFFIRMED.

Note: This disposition is not appropriate for publication and may not be cited to or by the Courts of his Circuit except as provided by Ninth Circuit Rule 21.

Original Filed
Oct. 23, 1985
William L. Whittaker,
Clerk, U.S. District
Court, San Francisco

United States District Court for
the Northern District of California

Raymond Dobard
Plaintiff

vs.

City of Oakland, et al.
Defendants

Civil Action No.
C 85-1359 JPV

Notice of Appeal

To Defendant City of Oakland

Notice is hereby given appealing the order of Honorable J.P. Vukasin, Jr. dismissing the above entitled action with prejudice, entered on September 30, 1985.

Dated: Oct. 23, 1985.

s/ Raymond Dobard, Plaintiff

FILED
SEPT. 30, 1985

WILLIAM L. WHITTAKER, CLERK

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

RAYMOND DOBARD, Plaintiff, vs. CITY OF OAKLAND, et al., Defendants.	No. C-85-1359 JPV ORDER DISMISSING DOES AND GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

ENTERED IN CIVIL DOCKETS 10/3/85

Plaintiff filed his complaint in the above-captioned action on February 4, 1985, naming as defendants the City of Oakland and ninety-eight Does. On July 11, 1985, defendant City of Oakland filed, and duly noticed for hearing on August 8, 1985, its motion for summary judgment. Plaintiff failed to file any opposition thereto within the time limits mandated by Local Rule 220-3. At the hearing, however, plaintiff appeared to argue in opposition to the motion; his arguments went

less to the merits than to his insistence that he had never received proper service of the motion and supporting papers.

On August 23, 1985, this Court issue its order enlarging the time in which plaintiff might file a written opposition to the motion for summary judgment. This Order further directed that the matter be deemed submitted on the papers as of September 19, 1985. On September 12, 1985, plaintiff filed a document entitled "Memorandum of Points and Authority in Opposition to Motion to Dismiss." Defendant's reply brief in support of its motion for summary judgment was filed on September 19, 1985.

Having considered the moving papers and reviewed the entirety of the somewhat convoluted record in this matter, the Court is of the opinion that plaintiff's complaint does not, and cannot, state a claim for relief. It is the further opinion of the Court that plaintiff's "Opposition to Motion to Dismiss" (sic) fails to demonstrate that there exists, within the meaning of Rule 56 of the Federal

Rules of Civil Procedure, a genuine issue of material fact sufficient to defeat defendant's motion for summary judgment. The Court additionally finds that the Doe defendants named in the complaint are wholly fictitious, and that no cause of action has been, or can be, stated against them.

In view of which, and good cause appearing,

IT IS HEREBY ORDERED:

(1) That the Doe defendants are DISMISSED from this action upon the Court's own motion; and

(2) That defendant City of Oakland's motion for summary judgment is hereby GRANTED.

Dated: Sept. 30, 1985

/s/ J. P. Vukasin, Jr., Judge
United States District Court

Exhibit 13-JD

FILED
SEPT. 30, 1985
WILLIAM L. WHITTAKER, CLERK

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

RAYMOND DOBARD, Plaintiff, vs. CITY OF OAKLAND and DOES 2 through 99, Defendants.	No. C-85-1359 JPV JUDGMENT

ENTERED IN CIVIL DOCKETS 10/3/85

In accordance with the previously rendered Order Dismissing Does and Granting Defendant's Motion for Summary Judgment, it is hereby

ORDER, ADJUDGED and DECREED that the above-referenced action be, and is, DISMISSED with prejudice.

Dated:

/s/ J. P. Vukasin, Jr., Judge

United States District Court

Exhibit 8-1

FILED FEB 13, 1985
WILLIAM L. WHITTAKER
CLERK, U.S. DISTRICT
COURT, NO. DIST. OF CA

RAYMOND DOBARD
1866 Alcatraz Ave.
Berkeley, CA 94703
(415) 658-5344
Plaintiff in Pro Persona

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RAYMOND DOBARD, Plaintiff, v. CITY OF OAKLAND AND DOES 2 THROUGH 99, Defendants.	CIVIL ACTION NO. C 85-1359 JPV MOTION TO DISQUALIFY JUDGE (28 USCS 455 (a) JURY TRIAL DEMANDED

Now comes Raymond Dobard, the plaintiff in the above entitled action and moves the court for an order disqualifying the

Honorable J.P. Vukasin, Jr., presiding judge of the court, from hearing the aforesaid cause on the ground that his prejudice in favor of defendant precludes plaintiff from obtaining a fair and impartial trial.

Pursuant to 28 USCS 455 (a), an affivavit of movant, factually establishing the prejudice alleged herein is attached hereto, marked Exhibit No. 8, and made a part hereof. (cite 10 ALR 2d 1307)

This is the first and only such motion made by plaintiff in this action.

Dated: Feb. 11, 1985

/s/ Raymond Dobard, Plaintiff

Exhibit No. 8

RAYMOND DOBARD
1866 Alcatraz Ave.
Berkeley, CA 94703
(415) 658-5344
Plaintiff in Pro Persona

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

RAYMOND DOBARD, Plaintiff, v. CITY OF OAKLAND AND DOES 2 THROUGH 99, Defendants.	CIVIL ACTION NO. C 85-1359 JPV AFFIDAVIT OF PREJUDICE TO DISQUALIFY JUDGE JURY TRIAL DEMANDED

I, Raymond Dobard, being first sworn, depose and say:

I am the plaintiff in the above entitled action, and that I cannot have a fair and impartial hearing or trial before the Honorable J.P. Vukasin, Jr., judge of the court, before whom this action is pending, by reason of:

1. His family relationship to a member of

defendant's government policy making body, in present or prior participation. 2. His reputation in the East Bay Community of being biased and prejudiced against blacks, and plaintiff herein is black.

Dated: Feb. 11, 1985

/s/ Raymond Dobard, Affiant

Exhibit 13-E

ORIGINAL FILED FEB, 11, 1985
(SUA SPONTE) FILED MAR 5, 1985

WILLIAM L. WHITTAKER

CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

RAYMOND DOBARD, PLAINTIFF, VS. CITY OF OAKLAND, ET AL., DEFENDANTS.	)	NO. C 85-1359 JPV TEMPORARY RESTRAINING ORDER AND ORDER SHORTENING TIME

For good cause shown, IT IS HEREBY ORDERED that plaintiff's motion for Temporary Restraining Order shall be heard on Thursday, March 7, 1985, at 10:00 a.m., in Courtroom 2. Plaintiff shall serve all papers relevant to the motion on defendants not later than 10:00 a.m. on Wednesday, March 6, 1985. Defendants' response, if any, shall be served and filed not later than 5:00 p.m. the same day.

IT IS FURTHER ORDERED that defendants

shall refrain from conducting any demolition activity on the property which is the subject of this action pending the March 7, 1985, hearing.

Dated: March 5, 1985

/s/ J. P. VUKASIN, JR., JUDGE
UNITED STATES DISTRICT COURT

Exhibit 13-A

FILED FEB 13, 1985
WILLIAM L. WHITTAKER
CLERK, U.S. DISTRICT
COURT, NO. DIST. OF CA

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

RAYMOND DOBARD, Plaintiff, v. CITY OF OAKLAND, et al., Defendants.	No. C 85-1359 JPV ORDER DENYING PLAINTIFF'S MOTION FOR ORDER SHORTENING TIME

Good cause appearing, plaintiff's motion for an order shortening time, filed on February 11, 1985, is hereby DENIED.

IT IS SO ORDERED.

Dated: Feb. 13, 1985

/s/ J.P. VUKASIN, JR., JUDGE
UNITED STATES DISTRICT COURT

Exhibit 13-B

FILED FEB 19, 1985

WILLIAM L. WHITTAKER

CLERK

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

RAYMOND DOBARD, Plaintiff, v. CITY OF OAKLAND, et al., Defendants.	)	No. C 85-1359 JPV ORDER DENYING PLAINTIFF'S MOTION FOR ORDER SHORTENING TIME AND SETTING HEARING ON MOTION FOR RECUSAL

Good cause appearing, IT IS ORDERED:

(1) That plaintiff's motion for an Order Shortening Time for hearing of his motion for recusal is DENIED;

(2) That plaintiff's motion for recusal shall be heard on March 21, 1985, at 10:00 a.m., in Courtroom 2. Defendants' opposition, if any, shall be filed not later than 5:00 p.m. on March 7, 1985, and plaintiff's reply, if any, shall be filed not

later than 5:00 p.m. on March 14, 1985.

Dated: Feb. 19, 1985

/s/ J.P. VUKASIN, JR., JUDGE

UNITED STATES DISTRICT COURT

FILED FEB. 20, 1985

WILLIAM L. WHITTAKER

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

RAYMOND DOBARD -v- CITY OF OAKLAND, et al.,	No. C 85-1359 JPV

TO: Raymond Dobard
1866 Alcatraz Ave.
Berkeley, CA 94703

Joyce Hicks
Office of City Atty
City Hall
14th & Washington Street
Oakland, CA 94612

(Counsel for Plaintiff is directed to serve a copy of this Notice upon any other party in this action not listed.)

YOU ARE HEREBY NOTIFIED that on April 4,

1985 at 10:00 a.m. in Courtroom 2 on the 17th floor of the Federal Building, 450 Golden Gate Ave., San Francisco, California, the HONORABLE JOHN P. VUKASIN, JR. will conduct hearing on Plaintiff's Motion for Recusal. The previously scheduled date of March 21, 1985 is vacated. The briefing schedule is also vacated and briefs will be filed in accordance with Local Rule 220-3 using the new hearing date.

WILLIAM L. WHITTAKER
Clerk, U.S. District Court

Dated: 2/20/85

by: /s/ Lani Warner, Court Clerk
Honorable J.P. Vukasin, Jr.

DISQUALIFICATION TO ACT IN PARTICULAR CASE
(Federal Statutes and Authorities)

Re: Mr. George Vukasin, who is the brother of the Judge and Officer of Party

A. IN GENERAL

The rule which disqualifies a judge where, for example, he is interested in the subject matter of the suit or is within a certain degree of relationship to one of the parties has been said to have its foundation in public policy. It is intended not merely for the parties to a suit, but for the general interests of justice, by preserving the purity and impartiality of the courts, and the respect and confidence of the people for their decisions.

4. Bias or Prejudice

§166. Generally.

Public confidence in the courts requires that cases be tried by unprejudiced and unbiased judges. Unbiased judges are of first importance to litigants and the public. The

right to disqualify a judge for bias and prejudice is substantive and not one which will be lightly denied. At common law, bias or prejudice on the part of a judge, not the result of interest or relationship, is not supposed to exist....

§215. Under federal statute.

A federal statute provides that whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding. An affidavit upon information and belief is sufficient.

1. Generally

Recusal statute 28 USCS §445(a) and (b), requires mandatory disqualification of judge in any proceeding in which his impartiality might reasonably be questioned or where he has personal bias or prejudice concerning party. United States v. Brown (1976, CA5 La) 539 F2d 467.

28 USCS §455(a) is general in nature and does not rest on personal bias and prejudice structure of either 28 USCS §144 or 28 USCS §455(b)(1); it is broader than 28 USCS §144 disqualification being warranted not only where there is actual bias or prejudice, but where impartiality of judge might reasonably be questioned. United States v. Baker (1977, DC Tenn) 441 F Supp 612.

2. Purpose of 1974 amendments

1975 amendment to 28 USCS §455 changed standard for recusal from subjective one, which left to judge in his opinion decision whether it would be improper to sit, to

present objective standard requiring disqualification whenever judge's impartiality might reasonably question, change being intended to foster public confidence in judicial system by requiring disqualification if there is reasonable basis for doubting judge's impartiality. United States v. Cowden (1976, CA1 Mass) 545 F2d 257.

Legislative history of 1974 amendment to 28 USCS §455 leaves no doubt that Congress intended to adopt objective standard as opposed to judge's own opinion of his impartiality. Fong v. American Airlines, Inc. (1977, DC Cal) 431 F Supp 1334.

...§455(a) also expressly does away with "duty to sit" doctrine, which required judge to hear case unless clear demonstration of extrajudicial bias or prejudice was made. Blizard v. Frechette (1979, CA1 Mass) 601 F2d 1217.

In determining whether judge should

recuse under 28 USCS §455(a), issue is not whether judge is impartial in fact, but rather whether reasonable man might question impartiality under all circumstances. United States v. Gigax (1979, CA10 Colo) 605 F2d 507.

Goal of 28 USCS §455(a) is to foster appearance of impartiality, and any question of judge's impartiality threatens purity of judicial process; since statute focuses on appearance of impartiality, as opposed to existence in fact of bias or prejudice, judge faced with this potential ground for disqualification ought to consider how his participation in given case looks to average man on street. Potashnick v. Port City Constr. Co. (1980, CA5 Ala) 609 F2d 1101.

150 So.2d 077

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

v.

STATE OF ALABAMA

3 Div. 996

Supreme Court of Alabama

Feb. 28, 1963

"The trial Court Judge erred in denying Appellant's Motion to recuse himself (trial Judge) from hearing this cause, and as such it constituted a denial of rights secured Appellant under the equal protection and due process of law clauses of the Fourteenth Amendment to the United States Constitution."

[7] The judge before whom a proceeding is brought must determine, in the first instance, the question of his own competency. This decision may present to him a delicate and difficult question, but in solving it he is without discretion, and his action, if erroneous, is subject to be controlled by mandamus seasonably applied for. Smith, State ex rel. v. Pitts, Judge, 139 Ala. 152,

36 So. 29; Ex parte Dew, 7 Ala. App. 437, 62 So. 261.

AUTHORITIES IN SUPPORT OF DISQUALIFICATION OF JUDGE

Judge Vukasin's prejudicial ruling of "dismissal with prejudice," that drastically foreclosed appellant's property rights in this type of civil action, of a property owner seeking relief from the court, clearly demonstates his "extrajudicial" bias or prejudice, and thus present one of several factual grounds of impartiality.

Supreme Court Rules were adopted to facilitate business and be an aid to the court in its prompt and orderly disposition. Supreme Court Rules, rule 9(d).

Appendix "F"

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

RAYMOND DOBARD, PLAINTIFF,	)	NO. C 85-1359 JPV
VS.	)	SAN FRANCISCO, CA
CITY OF OAKLAND, ET AL., DEFENDANTS.	)	THURS., 3/7/85

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE

J. P. VUKASIN, JR., JUDGE

APPEARANCES:

FOR PLAINTIFF: (IN PRO PER) RAYMOND DOBARD
1866 ALCATRAZ AVENUE
BERKELEY, CA 94703

FOR DEFENDANTS: RICHARD WINNIE, CITY ATTY
JOYCE M. HICKS, DEPUTY
ONE CITY HALL PLAZA, 5TH FL.
OAKLAND, CA 94612

REPORTED BY: VIVIAN A. PELLA
OFFICIAL REPORTER
U.S. DISTRICT COURT

THURSDAY, MARCH 7, 1985

THE COURT: DOBARD VERSUS THE CITY OF OAKLAND. IT'S BEEN ADDED ON AS A LATE ADDITION.

THE CLERK: CIVIL 85-1359. YOUR APPEARANCES, PLEASE.

MS. HICKS: GOOD MORNING, YOUR HONOR, I'M JOYCE HICKS FOR THE CITY OF OAKLAND.

MR. DOBARD: YOUR HONOR, I'M RAYMOND DOBARD, THE PLAINTIFF IN THIS ACTION.

YOUR HONOR, I WOULD LIKE TO CALL TO YOUR ATTENTION THAT THERE'S A WRIT OF PROHIBITION THAT'S BEEN FILED IN THIS MATTER.

THE COURT: JUST A MINUTE. JUST A MINUTE. I HAVE TO STEP INTO MY CHAMBERS. JUST SIT DOWN AND I WILL BE WITH YOU IN A MOMENT.

(SHORT RECESS.)

MR. DOBARD: YOUR HONOR, AS I WAS PREVIOUSLY SAYING I HAVE A WRIT OF PROHIBITION THAT'S BEEN FILED. AND YOUR HONOR, I WOULD LIKE TO CALL TO YOUR ATTENTION THAT BEFORE YOU MAKE ANY RULINGS THAT YOU WERE DISQUALIFIED ON FEBRUARY 11TH, 1985 AND

YOU CANNOT EXERCISE JUDICIAL DISCRETION.

THE COURT HAS HELD THAT IF THE APPLICATION FOR CHANGE OF JUDGE IS TIMELY MADE SUCH REQUEST FOR CHANGE OF JUDGE PRESENTS NO QUESTION OF DISCRETION OR POLICY BUT THAT THE CHANGE MUST BE GRANTED AS A MATTER OF RIGHT. AND THE PLAINTIFF IS CITING RUSSEL VERSUS SUPERIOR COURT.

THE COURT: I HAVE ON THIS MORNING'S CALENDAR A REQUEST FOR A RESTRAINING ORDER. THE ONLY THING ON MY CALENDAR THIS MORNING IS A REQUEST FOR A RESTRAINING ORDER RESTRAINING THE CITY FROM DEMOLISHING A BUILDING.

MR. DOBARD: YOUR HONOR, THERE'S NO DISCRETION BEFORE YOU THIS MORNING BASED ON MY AFFIDAVIT THAT WAS FILED ON FEBRUARY THE 11TH THAT SAYS I CANNOT HAVE A FAIR AND IMPARTIAL HEARING IN THIS COURT, YOUR HONOR, AND THAT'S SELF-ENFORCING, YOUR HONOR, AND ACCORDING TO THE STATUTE OF UNITED STATES CODE SECTION 455 -- 28455(A), YOUR HONOR, YOU DON'T HAVE THAT DISCRETION AFTER I HAVE FILED AN AFFIDAVIT DISQUALIFYING YOU FOR YOU TO MAKE ANY RULINGS ON ANY TIME OF --

THE COURT: YOU'RE SAYING THE FILING OF THE AFFIDAVIT STOPS EVERYTHING?

MR. DOBARD: YES, YOUR HONOR, IT STOPS EVERYTHING.

THE COURT: WHAT'S YOUR POSITION ON THAT?

MS. HICKS: MY POSITION, YOUR HONOR, IS THAT IT DOES NOT.

MR. DOBARD: YOUR HONOR, I WOULD LIKE TO FURTHER --

THE COURT: HAVE YOU FILED WITH THE COURT ANY BRIEF OR PLEADINGS SUPPORTING YOUR POSITION THAT THE FILING OF YOUR DECLARATION --

MR. DOBARD: YES, YOUR HONOR.

THE COURT: -- STAYS ANY FURTHER PROCEEDINGS IN THIS COURT UNTIL RULED UPON?

MR. DOBARD: THE WRIT OF PROHIBITION WAS FILED, YOUR HONOR, AND THE MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THE DISQUALIFICATION.

THE COURT: WHO SIGNED THE WRIT OF PROHIBITION?

MR. DOBARD: IT'S JUST BEEN RECENTLY

FILED, YOUR HONOR, AND IT WAS -- AND IT HAS NOT BEEN SIGNED.

THE COURT: OKAY.

MR. DOBARD: i JUST WANT THE RECORD TO SHOW, YOUR HONOR, THAT MANDAMUS WILL FOLLOW RELATIVE TO ANYTHING THAT'S DONE IN THIS COURT AFTER MY AFFIDAVIT IS FILED TO BE REVIEWED ON APPEAL.

THE COURT: HAVE YOU REVIEWED THOSE DOCUMENTS?

THE LAW CLERK: NO.

THE COURT: VERY WELL.

MR. DOBARD: YOUR HONOR --

THE COURT: I HAVE BEFORE ME A REQUEST FOR A TEMPORARY RESTRAINING ORDER. I HAVE REVIEWED THE HISTORY OF THIS CASE AND IT APPEARS TO ME THAT MR. DOBARD HAS CONSISTENTLY BEEN PROVIDED WITH ADEQUATE NOTICE OF THE CITY'S INTENTIONS. HE HAS BEEN GIVEN NUMEROUS OPPORTUNITIES TO ABATE THE NUISANCE, AND HAS FAILED TO DO SO.

INDEED, IT APPEARS THAT HE HAS ACTIVELY SOUGHT TO FRUSTRATE THE CITY'S LEGITIMATE EFFORTS. AND IT APPEARS TO THE COURT THAT

THERE IS AMPLE STATUTORY AUTHORITY FOR BOTH THE PROCEDURES AND THE GOAL OF THE CITY'S EFFORTS, AND MR. DOBARD HAS NOT MADE THE MEANEST EFFORT TO COMPLY WITH SUCH PROPERLY-PROMULGATED LAWS.

IT APPEARS THERE'S NO REASON FOR GRANTING THE TEMPORARY RESTRAINING ORDER WHICH HE SEEKS AND THE CITY SHOULD BE ALLOWED TO PROCEED WITH ITS PROGRAM.

ACCORDINGLY, THE MOTION FOR THE TEMPORARY RESTRAINING ORDER IS DENIED.

NOW, MR. DOBARD, YOU MAY HAVE ANOTHER CONTENTION AND MAYBE THERE IS MERIT TO OTHER CONTENTIONS THAT YOU HAVE PREVIOUSLY FILED WITH THE COURT OR WHICH YOU MAY IN THE FUTURE. I'M NOT RULING ON THOSE AT ALL. THE ONLY THING BEFORE ME IS THE TEMPORARY RESTRAINING ORDER. I REVIEWED THE PAPERS AND THERE'S ABSOLUTELY NO REASON WHY THIS COURT--

MR. DOBARD: YOUR HONOR --

THE COURT: -- CAN GRANT A TEMPORARY RESTRAINING ORDER. MY CLERK HAS JUST NOTIFIED ME THAT YOUR MOTION FOR RECUSAL IS SET FOR HEARING ON APRIL 4TH AND I'LL BE

HAPPY TO ENTERTAIN THAT ON ITS OWN MERITS.

MR. DOBARD: YOUR HONOR, THE ONLY THING BEFORE YOU TODAY IS A MINISTERIAL DUTY AND --

THE COURT: ANYBODY WHO TELLS ME THAT DECIDING WHETHER TO ISSUE OR NOT ISSUE A RESTRAINING ORDER IS MERELY A MINISTERIAL DUTY IS MISSTATING WHAT THE LAW IS. THE COURT IS IN RECESS.

(WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.)

EXHIBIT 13-G

Filed
April 03, 1985
Phillip B. Winberry
Clerk, U.S. Court of Appeals

United States Court of Appeals for
the Ninth Circuit

Raymond Dobard,
Petitioner

vs.

United States District Court for the Northern District of California
Respondent

and

City of Oakland, et al.
Real party in interest

No. 85-7130
D.C. No. CV 85-1359 JPV
Northern California

ORDER

Before: Goodwin, Skopil, and Norris,
Circuit Judges

The trial judge has not yet ruled on petitioner's motion to disqualify him. The petition for a Writ of Mandamus is denied without prejudice to renew the request after the trial judge has ruled on the disqualification motion.

Mo Cal. 3/25/85

Exhibit 13-F

Original Filed
April 24, 1985
William L. Whittaker
Clerk U.S. District Court

Received
April 16, 1985
William L. Whittaker, Clerk

United States District Court
Northern District of California

Raymond Dobard
Plaintiff

vs.

City of Oakland, et al.
Defendants

Civil Action No.
C85-1359 JPV

ORDER - DENYING PLAINTIFF'S MOTION FOR RECUSAL, DENYING PLAINTIFF'S MOTION REQUESTING THAT THE RECUSAL HEARING BE BEFORE ANOTHER JUDGE AND DENYING PLAINTIFF'S MOTION FOR WITHDRAWL OF PREVIOUS ORDERS.

This motion came on for hearing on April 4, 1985 on Plaintiff motion for recusal.

The court having heard the arguments of plaintiff and defendant's counsel and having reviewed the pleadings and evidence in this matter and being fully advised, it is

ORDERED, that plaintiff's motion be denied.

It is further

ORDERED, that motions for summary judgment from the parties may be heard on June 6, 1985.

S / J.P. Vukasin, Jr., Judge
U.S. District Court

Dated: April 24, 1985

Exhibit 8-K(4)(a)

Filed
April 30, 1985
Phillip B. Winberry, Clerk
U.S. Court of Appeals

United States Judicial Council for
the Ninth Circuit

In re Charge of
Judicial Misconduct

No.: 85-8074
ORDER

Before: Browning, Chief Judge

A complaint alleging misconduct has been filed against a district judge (J.P. Vukasin, Jr.) in this circuit pursuant to the Ninth Circuit Procedure for Processing Complaints of judicial misconduct, 28 U.S.C. 9th Cir. R. App. B, issued under the Judicial Council Reform and Judicial Conduct and Disability Act of 1980. Pub. L. No. 96-458, 94 Stat. 2035 (1980).

Complaint is the plaintiff in a civil action pending in the district court. Shortly after filing suit, complainant also filed a motion for the disqualification of the judge

pursuant to 28 U.S.C. Sec. 455(a), a motion for a temporary restraining order (TRO) and injunctive relief, and a motion for an order shortening time to allow these motions to be heard in less time than provided by rule. The district judge denied the motion for an order shortening time, placed the motion for a TRO and injunctive relief on calendar for hearing and set the motion for disqualification for hearing two weeks after that. By subsequent order (Sua Sponte) the court continued the disqualification hearing for two weeks. On the date originally scheduled, the court held the hearing on and denied complaint's request for a TRO and injunctive relief.

Complainant alleges it was judicial misconduct for the judge to act in this case. Complainant contends the judge was automatically disqualified by the filing of the motion for disqualification, and therefore any subsequent judicial acts, such as making "Sua Sponte" motions, discretionary rulings, and orders were improper. These objections all relate to

the merits of a decision or procedural ruling of the judge, and are therefore inappropriate under these procedures. Procedures, 3(A)(ii), see In re charge of Judicial Misconduct, 613 F.2d 768, 769 (9th Cir. 1980).

The complaint is dismissed.

S / James Browning

Chief Judge

Exhibit O-H

The Oakland Housing Code Ordinance No. 8549 C.M.S.

Sec. H-207 (a) Creation-membership Housing Advisory and Appeals Board. There is hereby created a Housing Advisory Appeals Board to consist of seven members who are residents of the City of Oakland and are qualified by training and experience to pass upon matters pertaining to housing and health, safety and welfare of the public and;

NONE OF WHICH MAY BE A PUBLIC EMPLOYEE. (Appellant, Dobard draws this Honorable Supreme Court of the United States' attention to the arbitrary course of conduct of appellee's Housing Division Official, Julius F. Thomas, by acts of fraud and misrepresentation, wilfull and malicious, passed on matters pertaining to appellant's housing, with ex-parte evidence at an administrative hearing that deprived appellant of his vested right of an opportunity to be heard and said Ex-Parte evidence was "affirmed" by the Housing Advisory and Appeals Board as an

affirmation of a fraudulent misrepresentation and said resolutions Nos. 4166 (9/6/84) and 4179 (10/4/84) that resulted therefrom are null and void and thus appellant's properties were destroyed for no public purpose, and the passing on housing acts of City employee Thomas is in violation of O.H.C. Sec. H-207(a).

Sec. H-207(b) Duties and Powers of H.A.A.B.

1) To consider written appeals and protest concerning the provisions of this code.

3) At any time, in exceptional cases where it is impractical or physically impossible to comply with the strict letter of this code, and in order to provide for reasonable interpretation of the provisions thereof, upon written application of the owner, the Department, or any person in control of the premises to grant variances from the strict requirements of this Code.

4) To determine whether a residential building is in fact a substandard residential building, and/or an unsafe building within the meaning of said terms in this code.

(J) Reports. The Housing Advisory and

Appeals Board shall submit its findings and recommendations in writing to the aggrieved person.

(L.) Appeals. At any time prior to the giving of the first official notice, the property owner, may appeal to the Housing Advisory Appeals Board on subjects coming within the Board's jurisdiction. The appeal shall be made in writing and filed at the office of the Board. The decision of said Board shall be final and conclusive.

Sec. H-301 General. Whenever the Housing Division Official determines by inspection that an existing residential building or buildings has become substandard or unsafe, he shall institute proceedings to cause the repair or rehabilitation of the building.

Sec. H-302. Notification. Order to Comply or Show Cause. Hearing, etc.

The Housing Division Official shall give Official Notice in writing to the owner of a substandard residential building, or an unsafe building, specifying the inadequacies and hazards contained herein. He shall in said

Official Notice fix the time and place of hearing before the Housing Advisory and Appeals Board where said owner, may show cause, if any he has, why said building should not be declared a substandard residential building, or an unsafe building. Said Official Notice shall be given as hereinafter set forth.

The Housing Advisory and Appeals Board, hereinafter called H.A.A.B., at the time and place fixed for such hearing shall hear said matter and shall: 1.) Find and determine and declare that said building is, in fact, a substandard residential building or an unsafe building, or both; and thereupon determine what, if any of the specified inadequacies or hazards which render the building a substandard residential building or unsafe building must be corrected or abated to render said building standard and safe; or 2.) Find and determine that said building is neither a substandard residential building nor an unsafe building. Said hearing shall be conducted pursuant to the rules and regulations of the board.

The HAAB shall render its decision in writing and shall give Official Notice thereof to all interested persons appearing at said hearing.

Sec. H-303. Official Notice - How Given. Any official written notice required by the provisions of this code, unless it is herein otherwise specifically provided, shall be given in the following manner: The Housing Department shall personally serve, or shall send one copy of the Official Notice by certified mail, postage prepaid, to the person owning the land on which the building is located, or at an address as known to the City Clerk. The Housing Division Official upon giving notices as aforesaid shall file an affidavit thereof with the City Clerk certifying to the time and the manner in which such notices were given.

Sec. H-305. Demolition Procedure. Whenever the Housing Division Official shall order an unsafe building or a substandard residential building demolished, he shall commence proceedings before the HAAB to abate

said building as a public nuisance, and said Board shall properly notice and set the matter for hearing and decision, in accordance with the rules of procedure of the Board, and if said public nuisance has not been abated by the owner then the Board shall authorize and direct the Housing Division Officials to raze and demolish said building.

Sec. H-306. Standard For Demolition. The following standards shall be followed by the board in determining whether an unsafe building or a substandard residential building shall be demolished:

1.) If the unsafe building or the sub-standard residential building is in such condition as to make it dangerous to the health, morals, safety or general welfare of the neighborhood wherein it is located, it shall be demolished; or

2.) If a public nuisance as defined in the Civil Code of the State of California it shall be demolished.

3.) If a fire hazard it shall be demolished.

4.) If the unsafe building or the substandard residential building cannot reasonably be repaired or rehabilitated so that it shall no longer exist in violation of the law, it shall be demolished.

Exhibit 13-D

Filed

March 18, 1985

William L. Whittaker, Clerk

U.S. District Court

Received

Mar. 12, 1985

William L. Whittaker, Clerk

United States District Court

Northern District of California

Raymond Dobard — Civil Action No.

Plaintiff — C85-1359 JPV

vs. — ORDER

City of Oakland, et al. — Denying Plaintiff's

Defendants — Motion / TRO

This cause came on for hearing on March 7, 1985 on plaintiff's motion for a temporary restraining order, plaintiff appeared in pro per, defendant appeared through its deputy city attorney, Joyce M. Hicks.

The court having heard the argument of plaintiff and defendant's counsel and having reviewed the pleadings and evidence in this matter and being fully advised, it is ORDERED,

that the plaintiff's motion be denied.

Dated: Mar. 18, 1985.

S / J.P. Vukasin, Jr., Judge

Entered in Civil Docket 3/19/85

To: Alameda County Recorder's Office

Please file with County Recorder

D E M O L I S H E D

Subject Property: 9627 B Street

Owner: Raymond Dobard

Former Owner: Evelyn S. Minks

TERMINATION OF NOTICE OF SUBSTANTIAL AND/OR UNSAFE RESIDENTIAL BUILDING

I hereby certify that the notice of sub-standard and/or unsafe residential building given April 16, 1975, by the Housing Division Official and Secretary to Housing Advisory and Appeals Board, City of Oakland, in the Office of the County Recorder of Alameda County, and recorded as Document No. 75-52340 on April 22, 1975, is no longer of any force or effect as the building has been demolished on March 19, 1985.

Said notice was filed against property described as follows: Assessor's Parcel No. 44-4981-8

Owner of Record: Raymond Dobard

Dated: This 27th day of March 1985.

City of Oakland

S / Julius F. Thomas,

Housing Division Official and

Secretary to Housing Advisory

and Appeals Board

(Notary seal)

cc: HAAB No. 2363A

Hsg. Inspector: Groves

Termination Ref. File

Exhibit B-B

CITY OF OAKLAND

Interoffice Letter

To: Office of the City Manager

Attention: Henry Gardner

Date: February 26, 1985

From: Office of Community Development

Subject: City Council Request for Report on Demolition Action at 9625 "B" Street

On February 19, 1985, Mr. Ray Dobard appeared at the City Council meeting to request a stay of demolition on his property at 9625 "B" Street. At this meeting, the Council directed staff to report on City action regarding the property. Attached is a chronological history of the case.

Mr. Dobard purchased the building in 1979, two years after it had been declared a public nuisance. At that time, Mr. Dobard agreed to complete rehabilitation of both buildings (the front building is known as 9627 "B" Street) in 120 days. Over the next

two years, staff observed slow progress, primarily on the rear building. In addition, the buildings were secured and a fence placed around the property. Since the building was secured and some progress on rehab was being made, follow-up action was not pursued.

In June of 1984, the property was found vacant and staff began the usual follow-up process. Staff had not inspected the interior of the property since October 2, 1980. Exterior inspections of the property had been made on September 3, 1981, and June 26, 1984. Mr. Dobard did not allow staff to reinspect his property in June of 1984; consequently, due to the time that had elapsed since the October 2, 1980, interior inspection, its incomplete condition at that time, the exterior condition of the property and Mr. Dobard's failure to provide access to the property, staff proceeded to the next step in the process, demolition.

Mr. Dobard received proper notice of the intended demolition and did not contact anyone on staff until January 13, 1985. Due to

the extensive time which had passed on this case, the staff, with advice of the City Attorney, proceeded with the demolition despite the extension request.

The owner, Mr. Dobard, has had nearly six years to upgrade this property and has made minimal progress toward rehabilitation of the property. Since the City staff has been instructed to remove blighting influences whenever possible and this property has been vacant for nearly six years, the actions undertaken have been reasonable and in the best interests of the City.

/s/ Roy S. Schweyer, for
Antoinette Hewlett, Director,
Office of Community Development

Exhibit A

March 20, 1975

LIST OF VIOLATIONS

9625 "B" Street

Oakland, California

1. The vacant building is not properly secured against unauthorized entry. Sections 1.207 and 27.414 OFC, Section 204.09 OMC.

2. The following items were found to be in violation due to lack of maintenance and repair. Sections H-601, H-701, H-1001, and/or 104(h) OBC. Repair, replace, remove, or provide in order to maintain proper repair.

a. The roof is damaged and deteriorated.

b. The underfloor area is open and unscreened.

c. The siding in several areas is damaged.

d. There is wood-soil contact at various places at the foundation.

3. The survey indicates that the basic wiring throughout the structure may be

inadequate for today's usage; it is recommended that a licensed Electrical Contractor be consulted to make a determination as to wiring needs.

4. All of the plumbing fixtures throughout the structure with the exception of the bath tub have been removed and/or are broken. Section H-523 OHC. Provide necessary fixtures and appurtenances and install with permit.

5. IMPORTANT NOTICE -- (Applicable to rental housing).

The conditions set forth in this letter are in violation of local codes dealing with health, safety, or building. If said conditions are not corrected with a (6) six-month period or if you have not received an exemption due to lack of financing for repairs, the City of Oakland will mail a notice of noncompliance to the California State Franchise Tax Board as required by Sections 17299 and 2436.5 of the Revenue and Taxation Code.

NOTE: Should any further deficiencies

occur after the date of this letter from vandalism or any other cause, they shall be corrected as well.

Exhibit B

BUILING PERMITS FOR REPAIR AND ALTERATIONS FOR 9625 "B" STREET AND 9627 "B" STREET.

CITY OF OAKLAND, HOUSING CONSERVATION, OFFICE OF COMMUNITY DEVELOPMENT RECEIPT NO. 5346, DATED 8-8-79, FEE $6.00.

-o-

CITY OF OAKLAND, INSPECTIONAL SERVICES RECEIPT NO. 66277, DATED 8-6-79:

BUILDING PERMIT # D10998 . . .	$45.50
CHECKING FEE	$27.30
ROOFING PERMIT	74.21

-o-

CITY OF OAKLAND, ELECTRICAL INSPECTION DIVISION - PERMIT NO. 89758

Exhibit C

CITY OF OAKLAND

OFFICE OF COMMUNITY DEVELOPMENT

HOUSING CONSERVATION

October 16, 1980

Mr. Roy Dobard

3250 E. 14th Street

Oakland, CA 94601

RE: 9625/27 "B" Street

Dear Mr. Dobard:

At your request, I made a callback at the above property on October 2, 1980. The purpose was to verify work done on the 9627 (front) building which was not noted on my previous call and to note additional progress on the rear building, 9625.

My observation during this visit showed the following work accomplished on 9627 "B" Street (front building):

1. Copper ground (3/4" x 8') installed to the electrical system.

2. Repairs made to electrical conduit for sub-feed to rear building.

3. Installed 40-foot chain-link fence along the east side of the property.

4. Installed new gate and post at front of property.

5. Installed new electrical service.

6. Removed illegal addition from rear.

7. Removed deteriorated front porch floor and roof.

8. Repaired roof sheathing on the main portion of the building.

9. Cleaned up front, side, and rear yards and secured the building.

Work on 9625 "B" Street (rear building) was still progressing as noted on my visit to the property on September 12, 1980. Work completed to date:

1. Removed and replaced deteriorated siding and structural members.

2. Corrected wood-soil contact.

3. Roughed in all new 2" waste lines for plumbing in kitchen and bath.

4. Treated all foundation area wood with wood preservative.

5. Removed walls and floor of bathroom

to be replaced with new material.

6. Framed openings for new aluminum windows.

7. Installed new 6' patio door.

8. Replaced roof.

9. Reinforced roof with new jack studs.

10. Excavated yard area for new sewer.

11. Removed illegal room addition from rear of building.

In summary, the review of work completed as of September 12, 1980, indicates that substantial progress has been made. As long as the work continues at its present rate, further enforcement action will be held in abeyance.

If you have further questions, you may call Julius F. Thomas at 273-3381, 8:00-4:30 weekdays.

Sincerely,

/s/ Julius F. Thomas

Assistant Housing Manager

CITY OF OAKLAND

Exhibit D-1

September 12, 1980

CERTIFIED MAIL No. 8824119

Mr. Julius Thomas

City of Oakland

Housing Conservation Division

City Hall

Oakland, California 94612

Re: 9625 and 9627 "B" Street

Dear Mr. Thomas

9625 "B"

As per your on site inspection of our properties located at above address on September 12, 1980, it was observed that the attached list of 5 Housing Code Violations dated March 20, 1975 by the City of Oakland relative to 9625 "B" Street (Rear) were repaired and corrected. All violations were corrected with the benefit of proper building permits. All violations were corrected without the benefit of a Rehab Loan, therefore the expected completion was prolonged and delayed. Please remove these

buildings from your substandard property list.

Regards,

/s/ Ray Dobard

Copies

Enclosure

BEST AVA



9625 "B"
Front Elevation
BEFORE

EXHIBIT
C-1

8-13-79





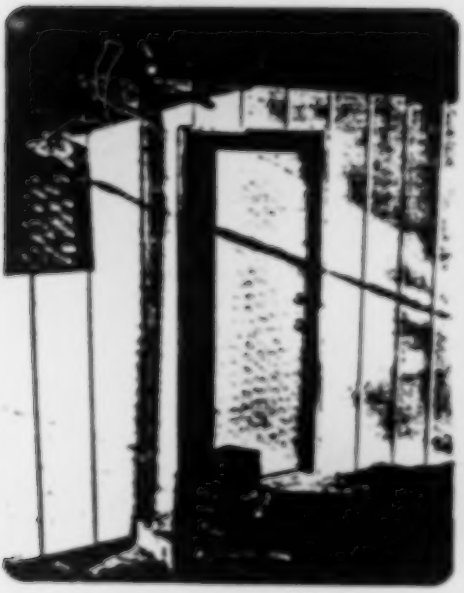
LABLE COPY

9625 "B"
Front Elevation
AFTER



EXHIBIT
C-1

10-16-80





BEST AVAIL

9625 "B"
East Side
Elevation
BEFORE

8-13-79

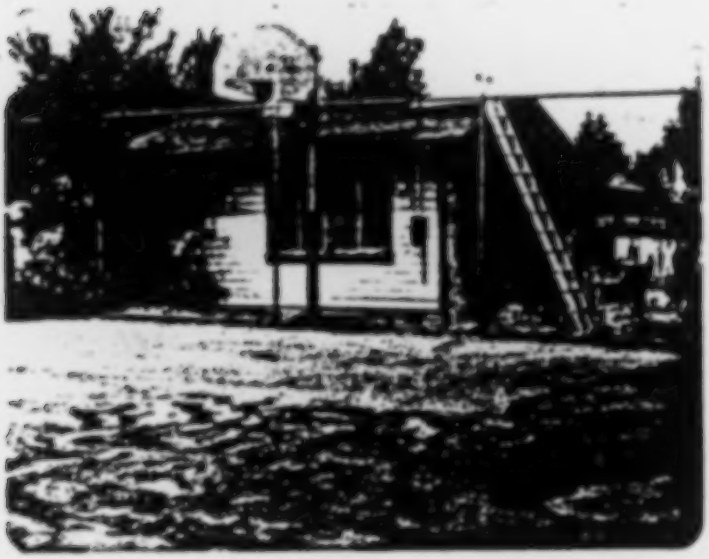
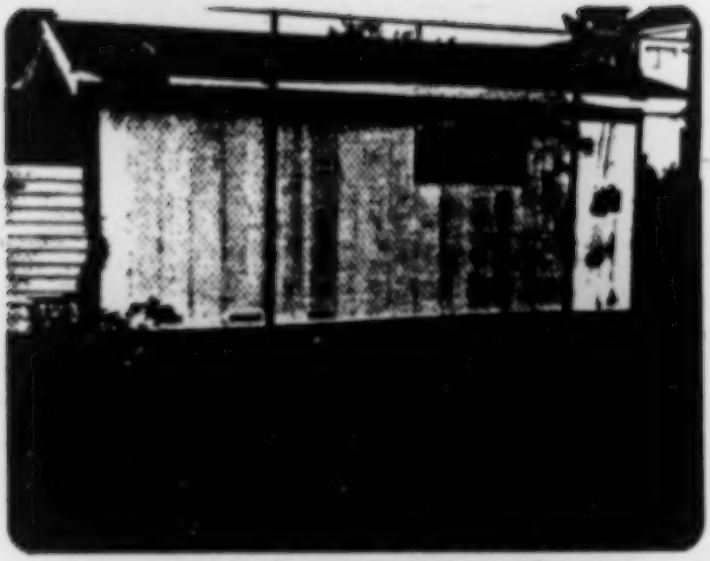


EXHIBIT C(1)

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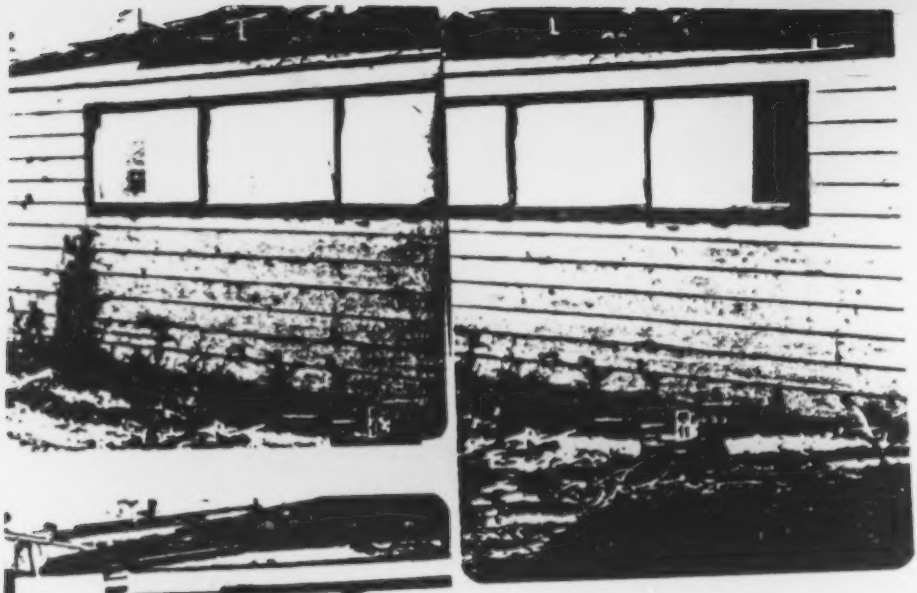
9625 "B" EAST ELEVATION
AFTER



EXHIBIT C-1

10-16-80

BEST AV





9625 "B" ↑
Rear Elevation including the illegal addition BEFORE

EXHIBIT C-1

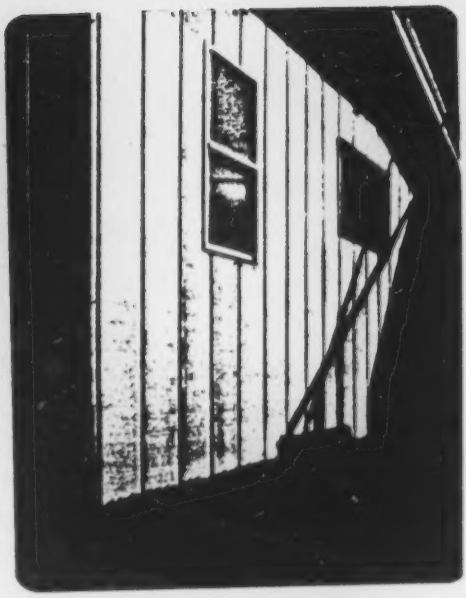


on Process of Removing the illegal addition →

8-13-79

VAILABLE COPY



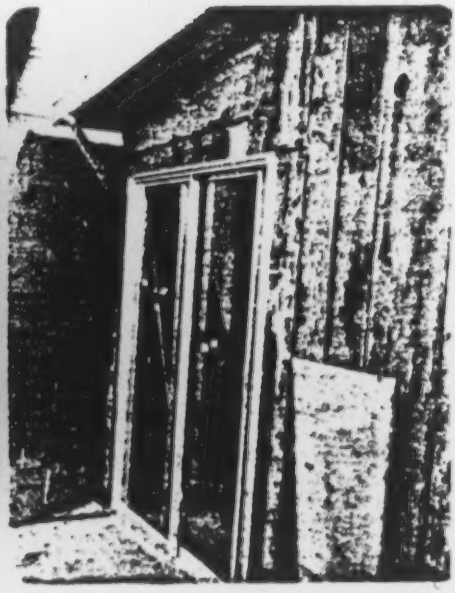


9625 "B"
Rear Elevation
AFTER

EXHIBIT
C-1

10-16-80





BEST AVAILABLE COPY

EMPLOYING OAKLAND'S MINORITIES AND WOMEN ON THE PROJECT.

EXHIBIT C-1





Petition

February 23, 1985

To: City of Oakland

From: Neighbors of 9625 "B" Street and 9627 "B" Street, Oakland, California

We the undersigned neighbors of the above properties, hereby declare, that the above subject properties does not endanger the health, morals, property or well being of our neighborhood.

Signatures of twenty surrounding neighbors of 9625-27 "B" Street

Exhibit No. 11

CITY OF OAKLAND

February 6, 1985

Mr. Ray Dobard

PO Box 3610

Berkeley, CA 94703

Re: 9625 "B" Street

Oakland, California

Dear Mr. Dobard:

This is to confirm the information given to you by telephone this date concerning the above property.

I have been advised by the City Attorney's Office of the City of Oakland that your request for a ninety (90) day continuance on the demolition action, scheduled to be heard February 7, 1985, may not be heard by the Housing Advisory and Appeals Board. I have been directed to proceed with the plans to demolish the structure.

You will today be sent our official letter directing you to remove all personal property

and/or items of value from the building, and the notice to the contractor to proceed with demolition will be mailed in ten (10) days; you will be sent a copy of the notice to proceed mailed to the contractor.

Sincerely,

HOUSING ADVISORY & APPEALS BOARD

/s/ JULIUS F. THOMAS, Secretary
Assistant Housing Manager

JFT:lpo

cc: Joyce Hicks, Attorney
City Attorney's Office

Roy Schweyer
Housing Manager

James Blyler
Supervising Housing Inspector

Exhibit C-C4 (4)

City of Oakland

Housing Advisory and Appeals Board

Hearing on Demolition Proceedings to Abate Certain Buildings Determined and Declared a Public Nuisance.

Dated: August 18, 1977

Resolutions Nos. 3465 and 3466

Owner: Larry and Lackurance Williams

Affected Premises: 9625 "B" Street and 9627 "B" Street

Whereas, the evidence presented included the following:

1. Action on premises started Aug. 15, 1966.

2. List of violations dated March 20, 1975.

3. Resolution 2866 declaring buildings substandard administratively April 16, 1975.

4. Letter dated Jan. 5, 1977, to Larry Williams advising him of rescheduling of case due to lack of progress.

Exhibit C-C 3 (1-2)

CITY OF OAKLAND

OFFICE OF COMMUNITY DEVELOPMENT

MEETING #511

HOUSING ADVISORY AND APPEALS BOARD MINUTES

Thursday, September 6, 1984, 9:30 a.m.
Conference Room 115, Oakland City Hall,
Oakland, California

PRESENT: Rev. Carl Howard, Chair
Sophie Hammes, Vice-Chair
Fred Payne
Louie Rubenstein
Julius F. Thomas, Secretary

Minutes of the August 2, 1984 meeting were approved as recorded. Moved to HAMMES, seconded by PAYNE: (4) Ayes, (2) Excused, (1) Vacancy.

NEW BUSINESS: Demolition and properties approved - Resolution 4166 below.

MOTIONS & RESOLUTIONS:

Moved/Seconded: Hammes/Payne

Resolution: 4166

Affected Address: 9627 "B" Street

Decision: Demolitions approved by the Secretary affirmed by the Board.

Exhibit C-C 4

CITY OF OAKLAND

OFFICE OF COMMUNITY DEVELOPMENT

MEETING #512

HOUSING ADVISORY AND APPEALS BOARD MINUTES

Thursday, October 4, 1984, 9:30 a.m.
Conference Room 115, Oakland City Hall,
Oakland, California

PRESENT: Rev. Carl Howard, Chair
James Bruce
Sophie Hammes, Vice-Chair
Fred Payne
Louie Rubenstein
Julius F. Thomas, Secretary

Minutes of the September 6, 1984, meeting were approved as recorded. Moved by PAYNE, seconded by BRUCE: (4) Ayes (Howard arrived 9:37), (2) Excused, (1) Vacancy.

REPORT OF STAFF: Resolution 4166 prepared affirming demolition properties. Original Resolution filed in the office of the

Secretary.

NEW BUSINESS: Approval of demolition properties - Resolution 4179 below.

MOTIONS & RESOLUTIONS:

Moved/Seconded: Hammes/Payne

Resolution: 4179

Affected Address: 9625 "B" Street

Decision: Demolitions approved by the Secretary affirmed by the Board.

Operating Agreement

THIS AGREEMENT, made this 21st day of October 1963, by and between the City of Oakland, a municipal corporation (hereinafter called "City") and the County of Alameda, a political subdivision of the State of California (hereinafter called "County"), First parties, and Oakland Alameda County Coliseum, Inc., a non-profit corporation organized and existing under and by virtue of the laws of the State of California (hereinafter called "Operator", Second Party.

Whereas:

W I T N E S S E T H :

The City and the County have heretofore made and entered into an agreement with the operator, dated as of October 21, 1963, under the terms of which the operator will operate and manage the Coliseum complex for and on behalf of the City and the County during the term thereof.

Exhibit 8-JJJ (c)

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is executed this 17th day of September, 1985 between the Oakland-Alameda County Coliseum, Inc., a California non-profit corporation ("Coliseum" hereafter) and the Oakland Athletics Baseball Company, a California limited partnership ("Athletics" hereafter).

RECITALS OF FACT

Coliseum and the Athletics are parties to an existing License Agreement pertaining to the occupancy by the Athletics of Stadium. The License Agreement is originally dated March 29, 1969 and has been amended several times, including an amendment dated September 19, 1980 executed at the time the License Agreement was assigned to the Athletics. The License Agreement expires by its terms in 1987.

The parties both desire to extend the License Agreement and amend it in certain respects. As the original document is

cumbersome in language and contains some concepts no longer relevant, both parties agree that the entire instrument should be redrafted. However, in order to permit both parties to act in reliance on the extension and amendment agreement, this Memorandum of Agreement is entered into, setting forth the essential new terms of the extension and amendment. Both parties will then proceed with deliberate speed to prepare and execute the restated License Agreement and all other documentation occasioned by this Memorandum.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. EXTENSION OF THE TERM.

The License agreement is hereby extended through December 31, 2000. This extension is subject to the provisions of paragraphs 7 and 12 of this Agreement. This extension supersedes the 1987 expiration date and four five-year option provisions under the present License.

2. CONCESSION REVENUE.

The Athletics revenue from parking and the sale of food and beverage in the Stadium

will be increased by adding the fixed sum of $1.5 million per season to the amount generated from the percentage of such revenue presently payable to the Athletics under the License. This increase will be in effect for the baseball seasons 1986-1990, after which time the increase will terminate; thereafter the Athletics will receive only the sum provided under the existing License. Payment of the increased revenues shall be made by crediting monthly the sum of $250,000 against the monthly charge for operating expenses otherwise reimburseable by the Athletics to the Coliseum under the License Agreement for April through September of each baseball season. Coliseum shall inform the Athletics of such credit by monthly memorandum.

. . .

4. PERCENTAGE RENT.

The rate of percentage rent of the Athletics increases based on attendance levels. As a consequence, many community programs which increase availability on the games to disabled persons, youth, the

elderly, or disadvantaged persons through reduced ticket prices have the effect of increasing the rate of percentage rent paid by the Athletics. To mitigate this problem, Coliseum agrees that discounted tickets will be counted towards attendance in the same proportion which their cost bears to the face value of such ticket. For example, a five dollar ticket sold at half-price will count as one-half person for purposes of calculating the rate of percentage rent. Tickets purchased from the A's Community Fund will not be counted in paid attendance at all for purposes of this calculation. The Athletics will provide Coliseum accurate records of such purposes.

5. SHORT TERM FINANCING.

The eventual goal of the parties is to develop methods for increasing and broadening the revenue base of the Athletics. To assist the Athletics during this transition, Coliseum agrees to lend the Athletics the sum of $15 million on a five year note, the proceeds of which will be used to refinance

existing debt and accounts payable obligations and fund deferred player liabilities. The principal sum will accrue interest at the rate of $1 million per year, and the sum of $20 million, including principal and all accrued interest will be due on or before 60 months from data of funding. The Note will be secured by a security interest in collateral acceptable to both parties, such as the Athletics partnership interest of Walter A. Haas, Jr. or the American League franchise of the Athletics, subject to Major League Baseball approvals. The Athletics must be notified of the precise terms and conditions of the loan on or before October 31, 1985, which terms must be substantially in accordance with the aforegoing.

. . .

14. CONCLUSION.

The philosophy of this document is to create a more productive working arrangement between Coliseum and the Athletics, all with a view to continuing the Oakland-Alameda County Coliseum as a first class sports and

entertainment facility.

In Witness Whereof, this agreement is executed the date first above written.

OAKLAND ALAMEDA COUNTY COLISEUM, INC.,
a non-profit corporation
By /s/ George J. Vukasin

OAKLAND ATHLETICS BASEBALL COMPANY,
a California Limited Partnership
By /s/ Walter Haas

Exhibit 8-JJJ (c)(1)

Oakland City Council Resolution No. 63970 C.M.S.

RESOLUTION AUTHORIZING A LOAN TO THE OAKLAND ATHLETICS FOR A TERM OF FIVE YEARS IN THE AMOUNT OF FIFTEEN MILLION DOLLARS

WHEREAS, in September 1985, the Oakland-Alameda County Coliseum Corporation ("Coliseum") and the Oakland A's entered into a Memorandum of Agreement (the "MOA") summarizing the terms on which public and private sector support would be marshalled to support the retention of the Oakland A's in Oakland; and

WHEREAS, one of the terms of the MOA called for the making of a $15 million loan to the Oakland A's by Coliseum; and

WHEREAS, the City of Oakland has agreed with Coliseum and the Oakland A's to provide the loan; and the City Manager and City Clerk are hereby authorized and directed to execute and deliver the loan agreement.

I certify that the foregoing is true and

correct copy of a resolution passed by the City Council of the City of Oakland, California on July 15, 1986.

S / Arrece Jameson

City Clerk

EXHIBIT 8-JJJ (a)

OFFICE OF THE ATTORNEY GENERAL

State of California

JOHN K. VAN DE KAMP

Attorney General

OPINION	:	No. 86-502
of	:	APRIL 1, 1987
JOHN K. VAN DE KAMP	:	
Attorney General	:	
CLAYTON P. ROCHE	:	
Deputy Attorney General	:	

THE HONORABLE RICHARD J. MOORE, COUNTY COUNSEL, ALAMEDA COUNTY, has requested an opinion on the following question:

Are meetings of the Board of Directors of the Oakland-Alameda Coliseum, Inc. subject to the open meeting requirements of the Ralph M. Brown Act, Government Code section 54950 et seq.?

CONCLUSION

Meetings of the Board of Directors of the Oakland-Alameda Coliseum, Inc. are

subject to the open meeting requirements of the Ralph M. Brown Act, Government Code section 54950, et seq.

ANALYSIS

The Ralph M. Brown Act, Government Code section 54950 et seq. requires that all meetings of "legislative bodies" of "local agencies" as defined in the act shall be open and public



unless excepted by the act or by some other confidentiality provision of the law. (See 54951-54953; Sacramento Newspaper Guild v. Sacramento County Bd. of Suprs. (1968) 263 Cal.App.2d 41.) "Legislative body" as defined in the act is not restricted to the actual government body of a "local agency." Also "local agency" as defined in the act may include nongovernmental bodies.

This request for our opinion posits the question whether the Board of Directors of the Oakland-Alameda Coliseum, Inc. is subject to the open meeting requirements of the Ralph

M. Brown Act. The corporation is a California nonprofit corporation. Its board consists of private citizens, none of whom are appointed by any governmental officer or agency.

I. FACTUAL BACKGROUND

The Oakland-Alameda County Coliseum, Inc. was formed in 1961 by six private citizens under the then California General Non-profit corporation Law. its stated purposes were to acquire the necessary real property and to contract a multi-purpose public recreation coliseum and stadium in the City of Oakland, and to conduct the business affairs of such a complex so as to ultimately vest in the City of Oakland and the County of Alameda all the right, title and interest of the corporation in the Coliseum complex.

To effectuate these purposes the corporation entered into a master agreement with both the City of Oakland and the County of Alameda which provided in detail for the acquisition and construction of the Coliseum complex, the operation thereof by the

corporation, and the ultimate transfer of the complex to the city and the county. This agreement was entered into in the latter part of 1963.

The master agreement provided that the Coliseum should be constructed and financed through the medium of a class lease and lease-back such as have been approved in cases such as Dean v. Kuchel (1950) 35 Cal. 2d 244; City of Los Angeles v. Offner (1942) 19 Cal.2d 483 and County of Los Angeles v. Nesvig (1965) 231 Cal.App.2d 603.

Accordingly, the Coliseum, Inc. agreed to acquire at its own expense the real property on which the Coliseum complex was to be constructed and to convey it (including improvements to be made thereon) to the city and county.

In so concluding, we would point out that a body which has been delegated powers of a "legislative body" of a local agency pursuant to section 54952.2 will itself be a "legislative body" for purposes of the Ralph M. Brown Act only when meeting with respect

to the exercise of those delegated powers. Such delegation may be narrow or may be virtually all encompassing. We appear to be dealing with the latter form of delegation herein.

Conceivably, the Board of Directors of the Oakland-Alameda Coliseum, Inc. could meet for the sole purpose of discussing matters which do not fall within the scope of any delegation from the city or the county, for example, a discussion of purely corporate matters unrelated to the operation of the Coliseum complex. However, as a general proposition, it would seem that their meeting of necessity would normally r elate to their delegated powers.

Accordingly, we conclude that the meetings of the Board of Directors of the Oakland-Alameda Coliseum, Inc. are subject to the open meeting requirements of the Ralph M. Brown Act.